



FREDERICK COUNTY PLANNING COMMISSION

September 13, 2013

TITLE: Resthaven Memorial Gardens

FILE NUMBER: SP 76-03 AP#10097, APFO#10098,
FRO#10099

REQUEST: **Site Development Plan and APFO Approval**
The Applicant is requesting Site Development Plan and APFO approval for the construction of a 2-story, 22,962 square foot building for cemetery use; 1,179 square feet of additions to the existing office building "A"; and construction of an 1,875 square foot utility building and crematory, for a total of 26,016 square feet of new building space on a 33.88-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: 9501 Catoctin Mountain Highway, located along US 15,
across US 15 from Hansonville Road

TAX MAP/PARCEL: Tax Map 48, Parcel 104
COMP. PLAN: Agricultural & Resource Conservation
ZONING: Agricultural & Resource Conservation
PLANNING REGION: Frederick
WATER/SEWER: W-NPS/S-NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Richard & Skkot Cody
OWNER: Richard & Skkot Cody
ENGINEER: Lavelle & Associates, Inc.
ARCHITECT: N/A
ATTORNEY: Seymour Stern, Esq.

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION:

Conditional Approval

ATTACHMENTS:

Exhibit 1-Resthaven Site Plan Rendering
Exhibit 2-Zoning Determination Letter, dated June 7, 2013.
Exhibit 3-Loading Space Modification Justification Letter
Exhibit 4-Resthaven Letter of Understanding

STAFF REPORT

ISSUE

The Applicant is requesting Site Development Plan and APFO approval for the construction of a 2-story, 22,962 square foot building for cemetery use; 1,179 square feet of additions to the existing office building "A"; and construction of a 1,875 square foot utility building and crematory, for a total of 26,016 square feet of new building space on a 33.88-acre site. The proposed use is being reviewed as a "Cemetery/Memorial Gardens" land use under the heading of *Open Space & Institutional* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the Agricultural Zoning District subject to site development approval.

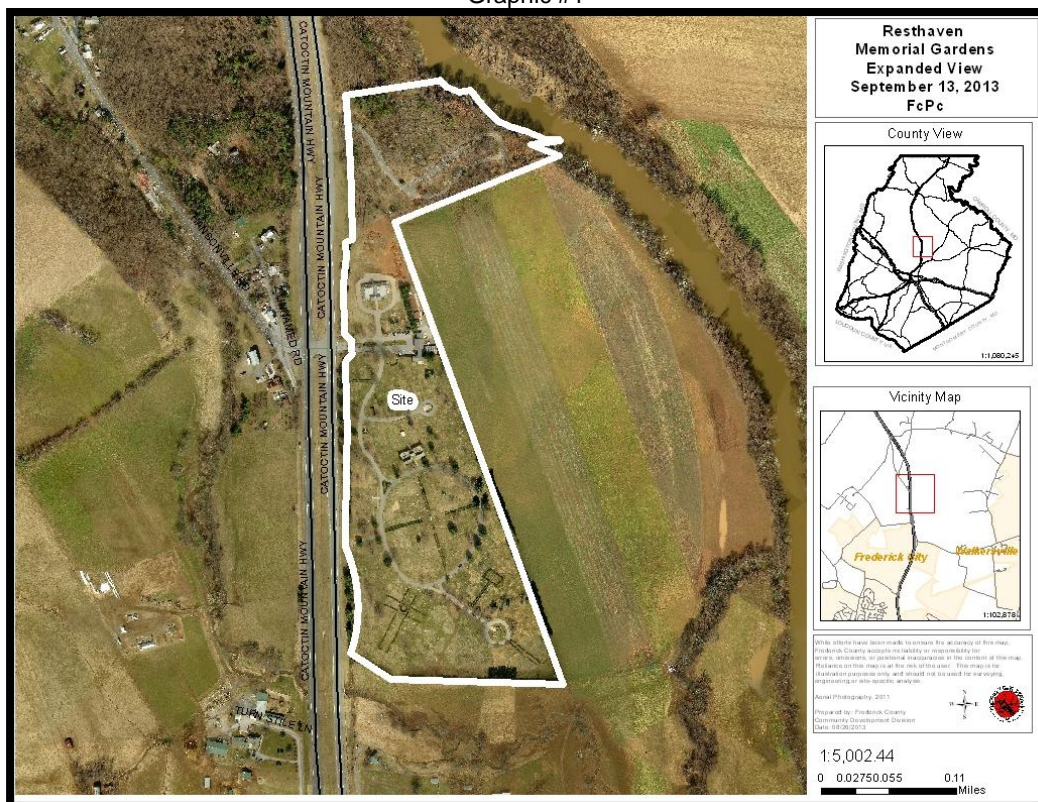
BACKGROUND

Two small portions of this site, one located in the north-eastern corner and the other along the southern border, were the subject of a rezoning from Resource Conservation to Agricultural as part of rezoning case CPZ-11-FR-2. The Resource Conservation zoning line was modified in the north-eastern portion to follow the 100 year FEMA Floodplain line.

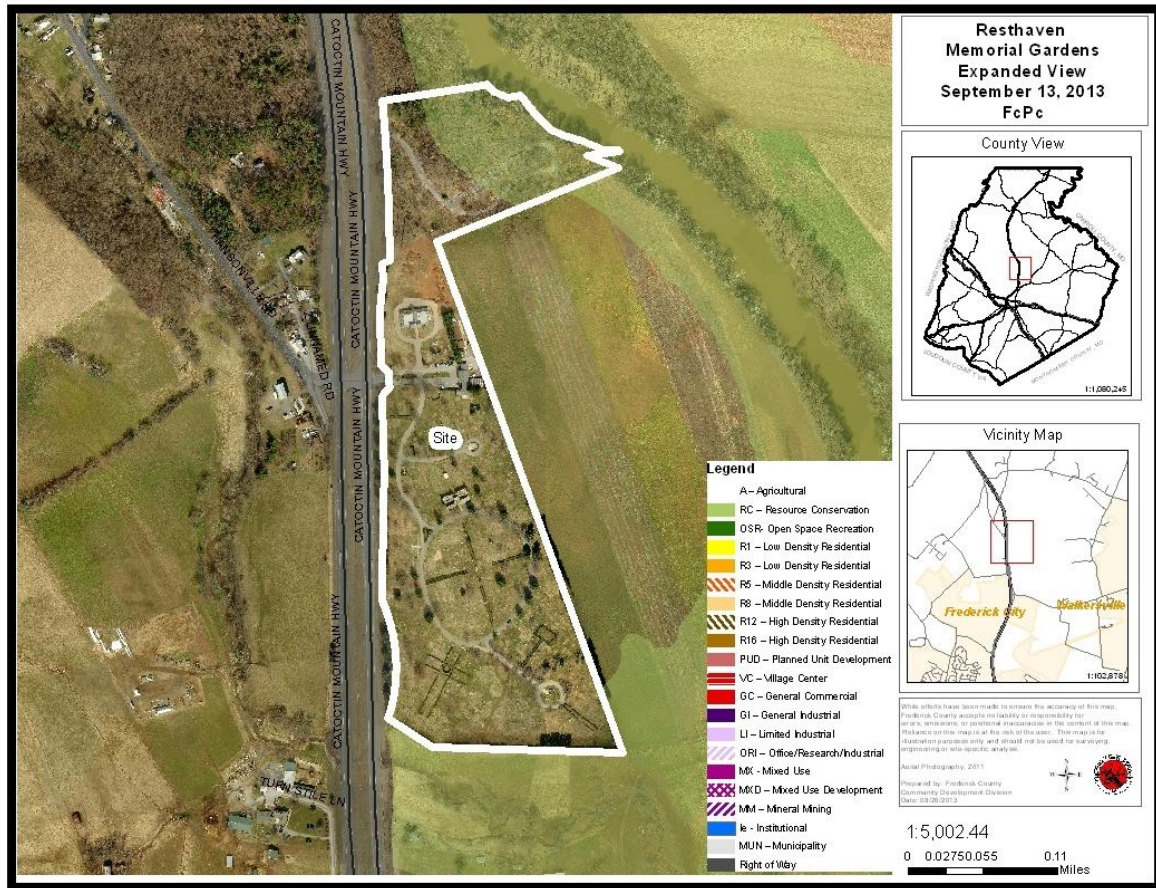
This site had prior site plan approval for the construction of a mausoleum and memorial gardens in February of 1976. The site is currently zoned Agricultural and Resource Conservation, and is developed with twelve gardens, four garden mausoleums, a full indoor chapel mausoleum, and a full service crematory.

The property to the north of the site is a forested area in between the Monocacy River and US 15. The property to the east (beyond US 15) and the property to the south are developed with existing farmsteads. US 15 runs parallel to the western border of the site. See Graphic #1 below.

Graphic #1



Graphic #2



ANALYSIS

Summary of Development Standards Findings and Conclusions

The primary issue associated with this proposed development involved a review and determination of the proposed land uses by Staff and the Zoning Administrator. Staff coordinated with the Zoning Administrator and Applicant to detail that all of the proposed uses are accessory uses that are incidental to the primary use of a cemetery/memorial garden. Staff worked with the Applicant on the overall design of the site in order to ensure that all development is located outside of areas containing sensitive environmental features or resource conservation zoning.

On June 7, 2013, the Applicant submitted a request for a determination of accessory uses to its 'Cemetery/memorial garden use'. The proposed accessory uses included in the request were the following: cemetery offices, cemetery arrangements, assembly areas for gathering and fellowship (maximum size of 600 square feet), and ceremony and cemetery merchandise display area and storage. Based on the information provided to the Zoning Administrator, it was determined that all of the uses proposed above are customarily incidental to the primary use of cemetery/memorial gardens. See attached Exhibit #2. In accordance with Zoning Ordinance Section 1-19-8.220, a crematory is also a permitted accessory use in the Ag zoning district. The Applicant meets all of the required accessory uses standards for a crematory in the AG zone in accordance with ordinance section 1-19-8.200.A through D.

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

Site Development §1-19-3.300.4 (A): Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.

Findings/Conclusions

1. **Dimensional Requirements/Bulk Standards §1-19-6.100:** The Applicant proposes construction in locations to the interior of the site and/or consistent with existing on-site development. The largest proposed structure will be located in an area adjacent to US 15. The development proposal adheres to the dimensional requirements and bulk standards for Open Space Uses within the Agricultural Zoning District. The Applicant has proposed landscaping and screening to supplement existing vegetation on-site in accordance with Zoning Ordinance requirements (see discussion below). See Graphic #2.
2. **Signage §1-19-6.300:** There are no changes proposed to the existing on-site signage as part of this application.
3. **Landscaping §1-19-6.400:** The Applicant has submitted a landscape plan which exceeds the requirements listed in the Zoning Ordinance. Due to the nature of the existing use on-site the Applicant has proposed a mix of deciduous and evergreen trees, shrubs and grasses in order to provide a tranquil setting for all visitors. Several of the landscaped areas also serve as landscape infiltration areas which filter and release stormwater run-off. The landscape plan proposed by the Applicant is proposing 49% canopy cover (at maturity) over the proposed parking area.

The southern portion of the site contains the 12 gardens which are planting with mature evergreen and deciduous trees and ornamental shrubs.

4. **Screening §1-19-6.400:** The site has an existing mature evergreen screen supplemented with deciduous over story trees along the full frontage of US 15 as well as along the southern and eastern property line. The existing maintenance building is fully screened from the interior of the site by mature evergreens. The northern and eastern most portion of the site will be permanently preserved forested easements.
5. **Lighting §1-19-6.500:** The Applicant has submitted a lighting plan that is proposing 6 building mounted lights at a location not to exceed 15' in height, as well as 7 ornamental pole lights, which will not exceed 15' in height. All of the site lighting will be placed as to prevent glare onto roadways and adjoining properties. No ambient or skyward lighting shall occur with any lighting proposed on site. Lighting levels will not exceed 0.5 foot candles at the periphery of the property. Any additional lighting on the site must be reviewed and approved by staff.

Transportation and Parking §1-19-3.300.4 (B): The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.

Findings/Conclusions

1. **Access/Circulation:** The site has one existing 45' wide full access onto US 15; the current access point aligns with the intersection of US 15 and Hansonville Road. There are no alterations to the existing access point as part of the development proposal.

Resthaven Memorial Gardens

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2. Connectivity §1-19-6.220 (F): The location of this site limits the opportunities for inter-parcel connections, mainly due to natural and man-made features. This site is bordered to the north and east by the Monocacy River and the south by Muddy Creek. US 15 parallels the western border of the site. The overall design of the site does not preclude a future access to the adjacent farmstead to the east, although no connections or stub roads are proposed as part of this development.

3. Public Transit: This site is not served by Transit.

4. Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:

- a. There are 26 parking spaces existing on site, including 1 ADA accessible space. The Applicant is proposing to remove 12 existing spaces for the proposed construction. The Applicant has provided a detailed parking tabulation and breakdown for each use existing and proposed in each building located on site. In accordance with Zoning Ordinance Section 1-19-6.220, 1 space is required for every 150 square feet of gathering area and 1 space is required for every 300 square feet of office area. Buildings "A", "B", & "F" will contain office space and/or gathering areas associated with the existing use on site. The total office area (contained in Buildings "A" and "F") will be 11,972 square feet, which will require 40 spaces; the total gathering area contained in Buildings "F" and "B" will be 9,307 square feet which will require 62 parking spaces. There are two separate employee parking only areas proposed to be located behind Buildings "E" and "F". Therefore, the total parking spaces required for the proposed uses is 102 and the Applicant is proposing 102, including 4 ADA accessible spaces.
- b. In accordance with 1-19-6.210 of the Zoning Ordinance the Applicant is required to provide 3 large 12' x 50' loading spaces. The Applicant is requesting a loading space modification (as permitted in section 1-19-6.210(D) of the Zoning Ordinance) from the required 3 large spaces and is instead proposing 1 large and 1 small loading space on site, see attached Exhibit #3. Staff supports this loading space modification request.

5. Bicycle Parking §1-19-6.220 (H): In accordance with the Zoning Ordinance no bicycle parking is required in Agricultural or Resource Conservation zoning districts unless the specific use is noted in the bicycle parking requirements table and the proposed site is within 1.2 miles of a designated growth area. While this site is located within 1.2 miles of a growth boundary this development is not required to provide any bike racks because bicycles are prohibited on US 15 as well as the limited anticipated usage the proposed use would generate in this area.

6. Pedestrian Circulation and Safety §1-19-6.220 (G): The existing 5,454 square foot mausoleum building (shown as building "B" on sheet 2 of the site plan) is connected to the proposed building "F" via a 6' wide pedestrian pathway that runs north from building "B" through the proposed parking lot. The pathway also meanders through a landscaped central green providing a greater on-site aesthetic and pedestrian experience between the two buildings. There are also several existing decommissioned internal roads surrounded by proposed forested easements that will function as wooded walkways for family members visiting the site. The southern portion of the site contains a large network of existing pedestrian paths and ornamental gardens, all of which are proposed to remain.

Public Utilities §1-19-3.300.4 (C): *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

Findings/Conclusions

1. **Private Well and Septic:** This site is classified as W-NPS/S-NPS and is served by private well and septic. In accordance with the Health Department approval the Applicant has noted on the site plan (#26 & #27 sheet 1) "No embalming procedures or body preparation may take place on this site." As well as "Gatherings after services & Grief Support Group meetings to provide light refreshments, coffee and tea only. No dinners will be served at the site."

Natural features §1-19-3.300.4 (D): *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

Findings/Conclusions

1. **Topography:** The western portion of the site adjacent to US 15 is quite flat. The topography starts to slope down toward the Monocacy River in the north-eastern portion of site.
2. **Vegetation:** The overall site is heavily landscaped with 12 ornamental gardens as well as full evergreen and deciduous tree buffers along the eastern, western and southern property lines. The northern portion of the site contains a large stand of existing forest and floodplain area. A large portion of this forested area will be permanently preserved with protective FRO easements.
3. **Sensitive Resources/Natural Hazards:** The site contains two areas of 100-year FEMA floodplain. The larger area is located in the north-east portion and is the floodplain for the Monocacy River. The smaller area is in the southern portion and includes the floodplain for Muddy Creek. The site also includes areas of flooding and wet soils however, no development is proposed within these sensitive resource areas.
4. **Natural Hazards:** There are no natural hazards located on site.

Common Areas §1-19-3.300.4 (E): *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

Findings/Conclusions

1. **Proposed Common Area:** The proposed common areas are privately owned and maintained. These areas are available for guests and visitors to the memorial gardens and not open to the general public for passive or active recreation.
2. **Ownership:** This facility is privately owned and maintained.

Moderately Priced Dwelling Units – Chapter §1-6A: Due to the non-residential development proposal, MPDU's are not required.

Stormwater Management – Chapter §1-15.2: All site stormwater management shall be in accordance with the 2011 update to the Maryland Stormwater Design Manual, including all revisions and amendments. The Applicant has received approval for their Combined Stormwater Concept and Development plan for all activities proposed as part of this site plan.

APFO – Chapter §1-20:

1. **Schools:** The development of the property is a non-residential land use and is therefore exempt from APFO testing for Schools.
2. **Water and Sewer:** The Property has water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan* and is therefore exempt from APFO testing for public water and sewer.
3. **Road Improvements:** The Project would generate up to 4 am and 21 pm additional weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

In satisfaction of APFO requirements to mitigate site-generated trips, assuming a maximum trip generation for the new building space, the Developer shall pay into County-held escrow accounts the following pro rata contributions:

- a) No. 3742: US 15 Median Re-construction at and in vicinity of Devilbiss Bridge Road: The estimated cost of this Improvement is \$3,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.327%. Therefore, the Developer hereby agrees to pay \$9,810 to the escrow account for this Road Improvement.
- b) No. 3805: US 15 Northbound Accel Lane Extension at Devilbiss Bridge Road: The estimated cost of this improvement is \$38,706. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.74%. Therefore, the Developer hereby agrees to pay \$673 to the escrow account for this Road Improvement.

Therefore, prior to building permit issuance, the Developer hereby agrees to pay \$10,483 to the escrow accounts for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on September 13, 2016.

Forest Resource – Chapter §1-21: A Preliminary FRO plan is currently under review. The site contains 3.69 acres of existing forest. The Applicant proposes to meet the FRO requirements by protecting 2.75 acres of existing forest on site, planting 1.39 acres of new forest, protecting 1.35 acres of off-site forest within the floodplain area, claiming 0.11 acres of landscaping credit, and providing 2.00 acres of Forest Banking Credits. The Preliminary FRO plan must be approved prior to final site development plan approval. A final FRO plan must be submitted and approved, and mitigation provided prior to lot recordation, grading permit, or building permits, whichever is applied for first.

Historic Preservation – Chapter §1-23: There are no historic structures located on site.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval
Development Review Planning:	Hold: Address all agency comments as the plan proceeds through to completion.
State Highway Administration (SHA):	Approved
Div. of Utilities and Solid Waste Mngt. (DUSWM):	Approved
Health Dept.	Conditional Approval
Office of Life Safety	Conditional Approval
Traffic Engineering	Conditional Approval
Historic Preservation	Approved

RECOMMENDATION

Staff has no objection to conditional approval of the site development plan SP 76-03 (AP#10097), and APFO #10098 for Resthaven Memorial Gardens. If the Planning Commission conditionally approves the site development plan and APFO, the site plan and APFO are valid for a period of three (3) years from the date of Planning Commission approval.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. APFO approval; APFO shall be valid for three years from the date of Planning Commission approval.
3. The Preliminary FRO plan must be approved prior to final site development plan approval. A final FRO plan must be submitted and approved, and mitigation provided prior to applying for grading permits or building permits, whichever is applied for first.
4. Approval of the requested loading space modification request in accordance with Zoning Ordinance Section 1-19-6.210.D

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** Site Plan 76-03 **with conditions** as listed in the staff report **including APFO approval** for the proposed Resthaven Memorial Gardens, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit #1 Resthaven Site Plan Rendering



Exhibit #2 Zoning Determination Letter June 7, 2013



**FREDERICK COUNTY GOVERNMENT
DIVISION OF COMMUNITY DEVELOPMENT**

Eric E. Soter, Director

Planning & Development Review Department

Office of Zoning Administration
Larry W. Smith, Zoning Administrator

30 North Market Street
Frederick, Maryland 21701

www.FrederickCountyMD.gov

O: 301-600-2572 F: 301-600-2309

Commissioners

Blaine R. Young
President

C. Paul Smith
Vice President

Billy Shreve
David P. Gray
Kirby Delauter

Lori L. Depies, CPA
County Manager

June 7, 2013

Offit Kurman P.A.
Seymour B. Stern, Esq.
127 West Patrick Street
Frederick, MD 21701

Re: Resthaven Memorial Gardens, Inc.
9501 Catoclin Memorial Garden

Mr. Stern,

The above referenced property (Property) is currently zoned Agricultural (AG), and Resource Conservation (RC) under the Frederick County Zoning Ordinance. Cemetery/memorial gardens uses are permitted as per terms and condition of the Frederick County Planning Commission approved site development plan SP-76-03 as amended.

Resthaven Memorial Gardens have submitted a request for a determination of accessory uses to its cemetery/memorial garden use.

Resthaven Memorial Garden has proposed the following accessory uses within a two-story building with a garage in the basement:

- Cemetery offices
- Cemetery arrangements
- Assembly area for gathering and fellowship (maximum gathering/fellowship are no larger than 600 square feet)
- Ceremony and cemetery merchandise display and storage

Based on the information provided, and a review of the Zoning Ordinance, I find the uses as presented to be customarily incidental accessory uses to the above cemetery/memorial gardens.

Please be advised the site development plan SP-76-03 will need to be consistent with this determination.

If you have any questions or need further assistance, please contact me at 301-600-1491.

Sincerely,

Larry W. Smith
Zoning Administrator

cc: Michael Chomel
Gary Hessong

Resthaven Memorial Gardens

September 13, 2013

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Exhibit #3 Loading Space Modification Statement

LAVELLE & ASSOCIATES,
INCORPORATED
LAND SURVEYORS • PLANNERS

August 30, 2013

Mr. Tolson DeSa
Frederick County
Division of Permitting and Development Review
30 North Market Street
Frederick, MD 21701

RE: **RESTHAVEN MEMORIAL GARDENS, INC.**
File #SP7603, Project Number 10097

Dear Mr. DeSa:

We hereby request a modification to the loading space requirements 1-19-6.210 (A & B).

Three large loading spaces at 12' x 50' are not required due to the largest delivery to the site consists of concrete burial vaults.

Therefore, we request per section 1-19-6.210(D) for one large loading space (12' x 50') and one small loading space (9' x 20') as shown on Site Plan.

If you should have any questions, please contact me.

Sincerely,



Daniel P. Lavelle, Prof. L.S.
President

5732 Industry Lane, Frederick, MD 21704
Office: (301) 695-9722 • Fax: (301) 695-9766
www.lavelleandassociates.com



**FREDERICK COUNTY GOVERNMENT
DIVISION OF COMMUNITY DEVELOPMENT**

Eric E. Soter, Division Director

Planning & Development Review Department
Jim Gugel, Planning Director

30 North Market Street
Frederick, Maryland 21701

www.FrederickCountyMD.gov
O: 301-600-1153 F: 301-600-2054

Commissioners

Blaine R. Young
President

C. Paul Smith
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Billy Shreve
David P. Gray
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Lori L. Depies, CPA
County Manager

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Resthaven Memorial Gardens

Site Plan #SP76-03 AP #10098

In General: The following Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and Resthaven Memorial Gardens, Inc. (the "**Developer**"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Resthaven Memorial Gardens Site Plan (the "**Project**"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("**APFO**").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 33.88 +/- acre parcel of land, which is zoned Agricultural and located on the east side of US 15, with access on the northbound lanes of US 15, opposite Harrisonville Lane. This APFO approval will be for the construction of a new 2 story building for cemetery use, which is shown on the site plan for the above-referenced Project, which was conditionally approved by the Commission on September 11, 2013.

Schools: Schools are not impacted because the development of the property is a non-residential use.

Water and Sewer: The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan* and is therefore exempt from APFO testing for public water and sewer.

Road Improvements: The Project will generate up to 4 am and 21 pm additional weekday peak hour trips, which does not meet the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

In full satisfaction of APFO requirements to mitigate site-generated trips, the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. No. 3742: US 15 Median Re-construction at and in vicinity of Devilbiss Bridge Road: The estimated cost of this Improvement is \$3,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.327%. Therefore, the Developer hereby agrees to pay \$9,810 to the escrow account for this Road Improvement.
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Therefore, prior to building permit issuance, the Developer hereby agrees to pay \$10,483 to the escrow accounts for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on September 11, 2016.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures on next page]

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Resthaven Memorial Gardens LOU

RESTHAVEN MEMORIAL GARDENS, Inc.:

By:  Date: 08/31/2013
Richard Cody

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date: _____
Dwayne E. Robbins, Chair or William G. Hall, Secretary

ATTEST:

By: _____ Date: _____
Gary Hessong, Director, Permits & Inspections

Planner's Initials / Date _____

County Attorney's Office Initials / Date _____
(Approved as to legal form)